

Introduced by Senator Machado

February 16, 2005

An act to amend Section 999.9 of the Military and Veterans Code, relating to veterans.

LEGISLATIVE COUNSEL'S DIGEST

SB 320, as introduced, Machado. Disabled veteran business enterprises: certification.

Existing law requires state departments that award specified types of contracts to establish a 3% participation goal for certified disabled veteran business enterprises, as defined. With regard to disabled veteran business enterprises, existing law makes it a crime to, among other things, willfully make false statements or to fraudulently obtain certification as a disabled veteran business enterprise, as specified. Existing law requires the Department of General Services to revoke the certification as a disabled veteran business enterprise from any business that has committed any of these crimes regarding certification as a disabled veteran business enterprise.

This bill would preclude a business enterprise and its owners, partners, and principals, from applying for certification as a disabled veteran business enterprise for 3 years if that business enterprise has either been denied certification as a disabled veteran business enterprise, has had a certification as a disabled veteran business enterprise revoked, or has failed to answer an official inquiry by the agency that certifies businesses as disabled veteran business enterprises within 60 days of that inquiry being sent, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 999.9 of the Military and Veterans Code is amended to read:

999.9. (a) ~~It shall be~~ is unlawful for a person to:

(1) Knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain, certification as a disabled veteran business enterprise for the purpose of this article.

(2) Willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a state official or employee for the purpose of influencing the certification or denial of certification of any entity as a disabled veteran business enterprise.

(3) Willfully and knowingly obstruct, impede, or attempt to obstruct or impede, any state official or employee who is investigating the qualifications of a business entity that has requested certification as a disabled veteran business enterprise.

(4) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain, public moneys, contracts, or funds expended under a contract, that are awarded by any state agency, department, officer, or other state governmental agency, to which the person is not entitled under this article.

(5) Knowingly and with intent to defraud, fraudulently represent participation of a disabled veteran business enterprise in order to obtain or retain a bid preference or a state contract.

(6) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document.

(7) Willfully and knowingly aid or assist in, or procure, counsel, or advise, the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the

1 person authorized or required to present the declaration,
2 statement, or document.

3 (8) Willfully and knowingly fail to file any declaration or
4 notice with the awarding agency that is required by Section
5 999.2.

6 (9) Establish, or knowingly aid in the establishment of, or
7 exercise control over, a firm found to have violated any of
8 paragraphs (1) to (8), inclusive.

9 (b) Any person who violates any of the provisions of
10 subdivision (a) shall be guilty of a misdemeanor punishable by
11 imprisonment in the county jail not exceeding six months or by a
12 fine not exceeding one thousand dollars (\$1,000), or by both. In
13 addition, the person shall be liable for a civil penalty of not less
14 than ten thousand dollars (\$10,000) nor more than thirty
15 thousand dollars (\$30,000) for the first violation, and a civil
16 penalty of not less than thirty thousand dollars (\$30,000) nor
17 more than fifty thousand dollars (\$50,000) for each additional or
18 subsequent violation. A defendant who violates any of the
19 provisions of subdivision (a) shall pay all costs and attorney's
20 fees incurred by the plaintiff in a civil action brought pursuant to
21 this section.

22 (c) (1) The Department of General Services shall suspend any
23 person who violates subdivision (a) from bidding on, or
24 participating as either a contractor, subcontractor, or supplier in,
25 any state contract or project for a period of not less than three
26 years, and if certified as a disabled veteran business enterprise,
27 the department shall revoke the business' certification for a
28 period of not less than three years. An additional or subsequent
29 violation shall extend the periods of suspension and revocation
30 for a period of not less than five years. The suspension and
31 revocation shall apply to the principals of the business and any
32 subsequent business formed or financed by, or affiliated with,
33 those principals.

34 (2) The Department of General Services shall prohibit any
35 business or person who fails to satisfy the penalties, costs, and
36 attorney's fees imposed pursuant to subdivision (b) from further
37 contracting with the state until the penalties are satisfied.

38 (d) The awarding department shall report all alleged violations
39 of this section to the Department of General Services. The
40 Department of General Services shall subsequently report all

1 alleged violations to the Attorney General who shall determine
2 whether to bring a civil action against any person or firm for
3 violation of this section.

4 (e) The Department of General Services shall monitor the
5 status of all reported violations and shall maintain and make
6 available to all state departments a central listing of all firms and
7 persons who have been determined to have committed violations
8 resulting in suspension.

9 (f) ~~No~~*An* awarding department shall *not* enter into any
10 contract with any person suspended for violating this section
11 during the period of the person's suspension. ~~No~~*An* awarding
12 department shall *not* award a contract to any contractor utilizing
13 the services of any person as a subcontractor suspended for
14 violating this section during the period of the person's
15 suspension.

16 (g) The awarding department shall check the central listing
17 provided by the Department of General Services to verify that the
18 person or contractor to whom the contract is being awarded, or
19 any person being utilized as a subcontractor or supplier by that
20 person or contractor, is not under suspension for violating this
21 section.

22 (h) *Notwithstanding any other provision of law, a business*
23 *enterprise and its owners, partners, and principals, that have*
24 *either been denied certification as a disabled veteran business*
25 *enterprise, have had a certification as a disabled veteran*
26 *business enterprise revoked, or have failed to answer an official*
27 *inquiry by the agency that certifies businesses as disabled*
28 *veteran business enterprises within 60 days of that inquiry being*
29 *sent, is precluded from making any subsequent application for*
30 *certification as a disabled veteran business enterprise for a*
31 *period of three years from the date of the denial, the revocation,*
32 *or the expiration of the 60 day period.*